



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 161 OF 2015

Vidyadhar Naru Tare

...Appellant.

Versus

Mahadev Balu Kamble and Others.

...Respondents.

Mr. P. M. Arjunwadkar for the Appellant.

Mr. Manoj Patil and Mr. Akash M. Murudkar for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : February 4, 2025.

P. C. :

1. At the outset, Mr. Patil points out that Respondent No. 2 has expired and legal heirs are already on record. Leave to delete the Respondent No. 2. Amendment to be carried out forthwith.
2. First Appeal has been preferred against the judgment dated 30th July 2011 passed by the Commissioner for Employees Compensation granting sum of Rs.1,97,060/- as compensation with interest @ 12% to the Appellant.
3. Facts of the case as can be discerned from the record are that parents and daughter of deceased Arun Mahadev Kamble filed an Application for compensation under the Workmens Compensation Act, 1923 claiming that during course of employment, crane fell on deceased while he was working and he sustained serious injuries and

expired. As the deceased had divorced his wife, there is no claim as far as wife is concerned.

4. The Petitioner herein and Respondent No.4 contested the claim denying the employer-employee relationship and that they are not liable to pay any compensation.

5. Trial Court considered the evidence on record and the statements of witnesses recoded by police which establishes that on 30th March 1996 the work of digging of well was in progress and along with other labourers, the deceased was employed as crane operator and because of breaking of wire of crane, the deceased along with the crane fell in the well and sustained serious injuries and expired. Based on the evidence on record, Trial Court held that the deceased was permanent employee employed as crane operator and had died during the course of his employment. After considering the age and monthly wages of deceased, the impugned judgment and order came to be passed directing deposit by the Appellant and Respondent No.4 jointly and severally.

6. Mr. Arjunwadkar, learned Counsel appearing for the Appellant would submit that the claimants did not fall within the definition of dependent and therefore the Application itself was not maintainable. He would further submit that evidence on record shows that the deceased was employee of the Respondent No.4 and even on the date

of accident, he was working for Respondent No.4 and therefore the Appellant was not liable to pay compensation. He would further submit that the evidence on record does not show any employer-employee relationship between the deceased and Appellant and therefore Appellant is not liable to pay any compensation.

7. *Per contra* Mr. Patil, learned Counsel appearing for the Respondents would submit that the evidence on record including the statements of witnesses recorded by police proved that the deceased was employed by present Appellant through the Respondent No. 4 as he had engaged the services of the Respondent No. 4 for the purpose of lifting the stones, soil, mud etc from the well situated on his land. He submits that therefore the Appellant would be principal employer and would be liable to pay compensation.

8. The Appeal has been filed under the provisions of Employees Compensation Act, 1923 which provides for an Appeal to High Court only on substantial question of law. Perusal of the Appeal memo would indicate that the Appeal memo contains grounds of Appeal but does not frame substantial question of law. Irrespective of the same, the evidence on record establishes that the work of digging of well was in progress on the land of present Appellant through the Respondent No.4, who was employer of the deceased. The statement of witnesses recorded by police would establish the fact that death of deceased had

occurred during the course of his employment while carrying out the work of digging the well on the land owned by present Appellant. As such the present Appellant would be the principal employer and would be liable to pay compensation jointly and severally along with the Respondent No.4. Based on the evidence on record, the Trial Court has held that employer-employee relationship has been established and further considering the age and monthly wages of deceased, has granted the compensation. From the findings, there is no perversity which has been demonstrated. The submissions advanced assail the findings of fact and the findings are based on evidence on record and in absence of demonstrable perversity, no substantial question of law arises in the present case. First Appeal is dismissed.

9. In view of the disposal of First Appeal, nothing survives for consideration in the pending civil/interim applications and the same stand disposed of.

[Sharmila U. Deshmukh, J.]